Senate Local Government Committee

Senator Scott E. Hutchinson
Chairman

Justin N. Leventry, Executive Director
jleventry@pasen.gov

Room 170 Main Capitol Building • Senate Box 203021 • Harrisburg, PA 17120-3021 • 717.787.9684 • senatorscotthutchinson.com

SENATE BILL 344 - P.N. 478

SYNOPSIS:
Senate Bill 344 would amend the Public Works Contractors' Bond Law of 1967 to insure one hundred percent project performance security for local governments.

EXISTING LAW:
The Public Works Contractors' Bond Law of 1967 and Title 62 (Procurement) both intend to provide project insurance (performance and payment) of 100% for contracting government bodies. Title 62 has for the most part superseded the Public Works Contractors' Bond Law with regard to state government. At the state level, for all construction contracts over $100,000, Title 62 requires a performance bond, executed by a licensed surety company, in an amount equal to 100% of the price specified in the contract and made payable to the Commonwealth.

At the local level, the Public Works Contractors' Bond Law in Section 3.1, allows for "*Any financial security, acceptable to and approved by the contracting body*, including, but not limited to … irrevocable letters of credit, or escrow accounts in … lending institutions… equal to one hundred percent of the contract amount… and solely for the protection of the contracting body which awarded the contract."

SUMMARY:
Although both statutes intend 100% protection, the seemingly flexible language in the Public Works Contractors' Bond Law has enabled projects to go forward at the local level with inadequate security.

The bill would amend the law to eliminate the "any acceptable" language and provide that there must be security at 100% of the contract amount on behalf of the government entity. That security can be in the form of a payment/performance bond issued by a licensed surety company, or could continue to be in the form of irrevocable letters of credit or a restricted escrow account.

Effective date: 60 days.